



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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XUM TAMBRIZ, et al.,

Plaintiffs,

- against -

TASTE AND SABOR LLC,

Defendant.
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20-CV-5409 (AJN) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This matter was referred to me for report and recommendation on Plaintiffs' motion for default judgment. On November 15, 2021, the Court ordered Plaintiffs to submit supplemental materials because Plaintiffs' affidavit submissions were incomplete. (Dkt. 47.) Specifically, the Court explained and ordered as follows: "ORDER: The motion includes the Declarations of Octaviano Xum Tambriz (ECF 39 at p. 29) and Leonardo Xum Tambriz (ECF 39 at p. 34). Both declarations are incomplete. The Octaviano Declaration is missing the page(s) with paragraphs 6 through 17. The Leonardo Declaration is missing the page(s) with paragraphs 6 through 16. Accordingly, no later than November 22, 2021, Plaintiffs shall file complete copies of both declarations. SO ORDERED." Complete copies of the declarations have not been filed, and Plaintiffs did not seek an extension.

Also on November 15, 2021, the Court ordered Plaintiffs to submit a supplemental affirmation and information relevant to awarding damages and attorneys' fees; the order was conditional in that it required the supplemental affirmation if Plaintiffs sought to include damages and fees in the default judgement. (Dkt. 48.) Specifically, the

Court explained and ordered as follows: “ORDER: If Plaintiffs seek to have the Court include in a default judgment an award of damages and fees, the Plaintiff must file a supplemental affirmation attesting to the exhibits attached as Exhibits A-F that are attached to the affirmation of Michael Faillace in support of default judgment at ECF 39. The affirmation does not describe or attest to any of the exhibits. Additionally, Exhibit E appears to be a damages schedule, the header for which states that it is privileged settlement communication and is subject to revision/correction. Plaintiffs must submit and attest to a damages schedule that is accurate and final. Also, Exhibit F appears to be the attorneys' billing records for the case for which Plaintiffs seek as part of a judgment, but nothing in the default submission attests to that. Plaintiffs shall file the supplemental affirmation, with exhibits, by November 22, 2021. As Mr. Faillace has been suspended from practice and terminated as counsel, the supplemental affirmation must be submitted by new counsel.” Again, Plaintiffs have not filed the information necessary to determine damages and fees, and Plaintiffs did not seek an extension.

Accordingly, the Court will give Plaintiffs a final opportunity to make the submissions, which should include complete information necessary to determine damages, fees, and costs. All such information shall be filed no later than **December 6, 2021**. If Plaintiffs fail to file the requisite information by that time the Court will recommend that the motion for entry of default judgment be denied.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', written over a horizontal line.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: November 24, 2021

New York, New York

Copies transmitted this date to all counsel of record.